

Appl. No. 10/787,495
Amdt. Dated December 6, 2007
Reply to Office Action of September 14, 2007

REMARKS

Reconsideration of the application is requested.

Claims 1-27 remain in the application. Claims 1-27 are subject to examination. Claims 1 and 13 have been amended.

Under the heading "Claim Rejections - 35 USC § 102" on pages 2-4 of the above-identified Office Action, claims 13, 22-24 and 26 have been rejected as being fully anticipated by the article titled Choices for Conservative Savers by Singletary (hereinafter Singletary) under 35 U.S.C. § 102.

Singletary focuses on laddering CDs in order to maximize ones return from CDs as noted in paragraphs 0003, 0013. Singletary does not concentrate on distribution of funds from the investment portfolio. Singletary does mention that money-market accounts should be used for money you may need in the short term (see 0016). However, Singletary is silent on how the money should be withdrawn or exhausted.

Claim 13 of the instant application recites:

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designating the first investment pool to be a pool from which assets may be distributed from until the first investment pool is exhausted.

Singletary does not identify which CD should be exhausted first. However, to further distinguish claim 13 of the instant application, claim 13 has been amended to recite that the fifth investment pool is formed of investments containing equities. Support for this change is found on page 23 of the specification of the instant application.

It is emphasized here that Singletary only teaches laddering only certificates of deposits. Singletary does not teach investing in equities as now recited in amended claim 13.

For the above stated reasons, the Examiner is respectfully requested to withdraw the rejection.

Under the heading "Claim Rejections ~ 35 USC § 103" on pages 4-15 of the above-identified Office Action, claims 1-7, 11-12, 14-21, 25 and 27 have been rejected as being obvious over the article titled Choices for Conservative Savers by Singletary (hereinafter Singletary) in view of

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U.S. patent publication No. 2002/0174045 to Arena et al.
(hereinafter Arena) under 35 U.S.C. § 103.

As noted above, Singletary focuses on laddering CDs in order to maximize ones return from CDs as noted in paragraphs 0003, 0013. Singletary does not concentrate on distribution of funds from the investment portfolio.

The Examiner states that Singletary does not teach

converting assets of the second investment pool into a fourth investment pool having the assumed average first rate of return when the first investment pool is exhausted

as recited in claim 1 of the instant application.

The Examiner relies on Arena for teaching this feature. Arena teaches a rebalancing strategy configured to minimize transaction costs and to balance the account to the previously agreed risk level. Arena does not teach the distribution of funds from the investment portfolio, rather Arena teaches redistribution within the portfolio.

The Examiner states that it would be obvious to rebalance the assets of Singletary using the teachings of Singletary. It is noted that the heart or overall goal of

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Singletary is to get all of the investments to be five year CDs in order to get the maximum CD rate. The Examiner is suggesting that Singletary would now rebalance and buy 1, 2, 3, and 4 year CDs. Clearly, Singletary teaches **directly against** such a rebalancing. Therefore one cannot incorporate the teachings of Arena into Singletary, as the proposed combination changes the principle operation of the Singletary reference. As noted in MPEP 2143.01, it is impermissible to recite a combination that destroys the principle operation of the main reference.

The invention of the instant application, hereinafter TEDI model, does incorporate a laddering strategy using various investment instruments (not just CDs) designed to add more risk as the time horizon increases. The TEDI model emphasizes tax minimization by withdrawing principal and interest from funds from one pool and only one pool until all monies from that pool is exhausted. Of course that pool is designed to be the first to be exhausted. The other pools are designed knowing that they will not have cash withdraws for a given period of time. In the prior art references there is no discussion of tax minimization and/or efficiency in their processes, nor the designation

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of one pool to be exhausted first.

In addition, there are no teachings in Arena or Singletary to rebalance the investment pools by "converting assets of the second investment pool into a fourth investment pool having the assumed average first rate of return only after the first investment pool is exhausted" (emphasis added).

Arena teaches that the rebalancing occurs when the portfolio mix violates an asset allocation ratio such as 60/40 stocks/bonds (see 0093-0095). If the allocation ratio is violated, a rebalancing occurs in that portfolio. In addition, the rebalancing is done portfolio wide. There is no teaching to rebalance only a subpart of the portfolio to create one investment pool to be exhausted first.

In contrast, in the instant application, the reallocation only occurs when the exhaustion (first) investment pool is exhausted (e.g. out of funds). Furthermore, in the instant application the rebalancing is not portfolio wide, but rather goes only to the next investment pool to reconfiguration a new exhaustion investment pool. In contrast, Arena teaches a portfolio wide rebalancing.

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Applicant agrees that the concept of staggering or laddering pools of money is well known in the art. However, the invention of the instant application, the TEDI model, builds on the concept of laddering pools of money. The differentiator is basically the concept of principal exhaustion from one pool of monies at a time while the other pools can experience the compounding effect as well as tax-efficiency of not having to distribute taxable income until that pool of monies is called upon.

Claim 1 has been amended to emphasis this point by changing the word "when" to "only after" the first investment pool is exhausted.

Regarding claim 11 of the instant application, claim 11 recites in part:

designating a first investment pool of the investment pools to have an assumed average first rate of return being a lowest rate of return of all the investment pools and from which distributions are first withdrawn from, as needed, before withdrawing funds from any of the other investment pools; and

converting at least part of the assets of a second investment pool having an assumed average second rate

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of return being a next lowest rate of return into a new investment pool when the first investment pool is exhausted due to distributions, the assets of the new investment pool being invested at a same assumed average rate of return as the first investment pool and being available for distribution.

Simply put, neither Arena nor Singletary teach either of these steps nor is the combination permissible as noted above because Singletary teaches against rebalancing. In addition, Arena does not teach rebalancing of only the second investment pool for recreating a new exhaustion pool. Rather Arena dictates a portfolio wide rebalancing.

For the above stated reasons, the Examiner is respectfully requested to withdraw the rejection.

In item 6 on pages 15-16 of the above-identified Office Action, claims 1-7, 11-12, 14-21, 25 and 27 have been rejected as being obvious over the article titled Choices for Conservative Savers by Singletary (hereinafter Singletary) in view of U.S. patent publication No. 2002/0174045 to Arena et al. (hereinafter Arena) and further in view of U.S. patent publication No. 2004/0088236 to Manning (hereinafter Manning) under 35 U.S.C. § 103.

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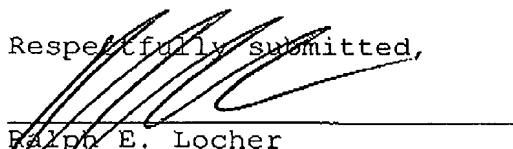
Claims 8-10 are dependent on amended claim 1, amended claim 1 is believed to be allowable and therefore, claims 8-10 are also believed to be allowable.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 11 or 13. Claims 1, 11 and 13 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1, 11 or 13.

In view of the foregoing, reconsideration and allowance of claims 1-27 are solicited.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,



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